



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

CRAIG L. GOOD,	§	
Petitioner,	§	
	§	
vs.	§	CIVIL ACTION NO. 3:06-2116-HFF-JRM
	§	
ANTHONY PADULA, Warden of Lee	§	
Correctional Institution, and HENRY	§	
MCMASTER, Attorney General of the State	§	
of South Carolina,	§	
Respondents.	§	

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ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE  
MAGISTRATE JUDGE AND DISMISSING THIS ACTION WITHOUT PREJUDICE AND  
WITHOUT REQUIRING RESPONDENTS TO FILE A RETURN

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This case was filed as a Section 2254 action. Petitioner is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the petition be dismissed *without prejudice* and without requiring Respondents to file a return. The Report is made in accordance with 28 U.S.C. § 636, and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on July 31, 2006, and Petitioner's objections were entered by the Clerk of Court on August 9, 2006. The Court has carefully reviewed Petitioner's objections but finds them to be without merit. Simply stated, and as observed by the Magistrate Judge, this "is a successive petition for which permission to file was not sought. . . . If Petitioner believes that some or all of his current claims would qualify for inclusion in a valid successive petition, he should first present his claims to the Fourth Circuit Court of Appeals." (Report 2-4.). Petitioner can contact the Clerk's Office, Court of Appeals for the Fourth Circuit, U.S. Courthouse Annex, 1100 E. Main Street, Room 501, Richmond, VA 23219, to make such a presentation.

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court overrules Petitioner's objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of this Court that the petition must be **DISMISSED** *without prejudice* as a successive § 2254 petition. Respondents are not required to file a return.

**IT IS SO ORDERED.**

Signed this 5th day of October, 2006, in Spartanburg, South Carolina.

s/ Henry F. Floyd  
H E N R Y     F .     F L O Y D  
UNITED STATES DISTRICT JUDGE

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#### **NOTICE OF RIGHT TO APPEAL**

Petitioner is hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.